

Remarks

Claims 19-32 are pending in this application. The Applicants have canceled claims 1-18 without prejudice. Claim 32 is new.

The Office action dated February 2, 2007, rejects claims 19-23 and claims 27-30 as being unpatentable over U.S. Patent No. 6,480,667 to O'Connor (O'Connor) in view of U.S. Patent No. 5,517,257 to Dunn et al. (Dunn). The Office action also rejects claims 24-26 and claim 31 as being unpatentable over O'Connor in view of Dunn in further view of U.S. Patent No 6,154,771 to Rangan et al. (Rangan).

Applicants disagree with the rejections given and the Examiner's characterizations. Reconsideration of the application is respectfully requested in view of the following remarks.

1. Information Disclosure Statements

Applicants thank the Examiner for providing initialed Form 1449's for the Information Disclosure Statements (IDS) filed on December 5, 2006, and November 6, 2006, in the application. However, the Examiner has still not signed off on all of the references cited in the following three IDSs:

- 1) An IDS filed May 25, 2006, with four U.S. patent references. Three were considered. However patent application No. 2003/0056216 to Wugofski has not yet been reviewed.
- 2) An IDS filed June 7, 2006, with two U.S. patent references, including patent no. 5,621,456 to Florin. None of these references have yet to be considered.
- 3) An IDS filed July 5, 2005, with five non-patent references, including one written by Jones, M. None of these references have yet to be considered.

Copies of these IDSs and their 1449's are attached for your convenience. Applicants respectfully request that the Examiner consider these references.

2. Claims Rejections 35 USC § 103

The Action rejects claims 19-23 and 27-30 under 35 U.S.C. 103(a) as being unpatentable over O'Conner in view of Dunn. To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art

reference (or references when combined) must teach or suggest all the claim limitations. (MPEP § 2142.)

Motivations to combine or modify references must come from the references themselves or be within the body of knowledge in the art. (See, MPEP § 2143.01.)

Independent claims 19, 22, and 23 are patentable as O'Connor and Dunn, taken separately or in combination, fail to teach or suggest at least one limitation of each of amended claims 19, 22, and 23. Applicants respectfully submit the claims in their present form are allowable over the cited art.

Independent Claim 19

Applicants respectfully submit that the art cited by the Office fails to teach or suggest the arrangement “receiving actuation of the delay control via the user interface, and in response to the delay control actuation, ... *displaying an indication of waiting email on screen*” as recited in amended claim 19.

The Application at page 9, lines 3-6 explains the amendment:

The screen can be put to various uses while the video is interrupted. Examples include presentation of quizzes and other entertainment to viewers who may still be in the viewing room. An indication of waiting email, or commercial or promotional messages, can similarly be presented.

Neither O'Connor nor Dunn discuss email, let alone *displaying an indication of waiting email on screen* as required by claim 19. Thus, claim 19 is in condition for allowance.

Dependent Claims 20-21 and 27-30

Claims 20-21 and 27-30 ultimately depend on claim 19. Thus, at least for the reasons set forth above with respect to claim 19, claims 20-21 and 27-30 should also be in condition for allowance. These claims also set forth independently patentable combinations.

Independent Claim 22

Applicants respectfully submit that the art cited by the Office fails to teach or suggest the arrangement “*means for determining if a threshold time has passed since actuation of the delay control; and in response to the threshold time passing, means for returning a transmission channel assigned to the program back to a pool of available transmission channels*” as recited in amended claim 22.

The Application at page 9, lines 7-11 explains the amendment:

If the stop in playback is brief, the system 10 maintains the assignment of the transmission channel to that video on demand client 14, despite the interruption in video

delivery. However, if the interruption period exceeds a threshold value (e.g. ten minutes), the system returns the assigned transmission channel back to the system's pool of available transmission channels.

Neither O'Connor nor Dunn discuss *returning a transmission channel assigned to the program back to a pool of available transmission channels* as required by claim 22, let alone doing so after a threshold time has passed. Thus, claim 22 is in condition for allowance.

Independent Claim 23

Applicants respectfully submit that the art cited by the Office fails to teach or suggest the arrangement "*returning a transmission channel assigned to the program to a transmission pool; receiving actuation of the resume control via the user interface after the channel has been returned to the transmission pool, and in response to the resume actuation, assigning a new transmission channel to the program*" as recited in amended claim 23.

The Application at page 9, lines 7-15 explains the amendment:

If the stop in playback is brief, the system 10 maintains the assignment of the transmission channel to that video on demand client 14, despite the interruption in video delivery. However, if the interruption period exceeds a threshold value (e.g. ten minutes), the system returns the assigned transmission channel back to the system's pool of available transmission channels. The channel may then be assigned to another use. If the user thereafter resumes playback by pressing "Go" on the remote (PLAY was already highlighted), the system responds by dynamically assigning a new transmission channel, retuning the client's RF tuner and the head-end's modulator accordingly, and resuming playback from (or just before) the point of interruption.

Neither O'Connor nor Dunn discuss *returning a transmission channel assigned to the program back to a pool of available transmission channels* as required by claim 22, let alone assigning a new transmission channel to the program when playback is resumed. Thus, claim 23 is in condition for allowance.

Dependent Claims 24-26 and 31

The Office asserts a rejection of claims 24-26 and 31 as obvious over O'Connor in view of Dunn, and further in view of Rangan et al., U.S. Patent No. 6,154,771 ("Rangan"). Applicants respectfully assert that claims 24-26 and 31 recites novel and nonobvious features allowable over the proposed O'Connor - Dunn - Rangan combination. Further, since they depend from allowable claim 19, they should be allowed for at least the reasons stated for claim 19. Claims 24-26 and 31 should be allowable. Such action is respectfully requested.

New Claim 32

Support for new claim 32 can be found, at least, in the Specification on page 9, lines 3-6.

Request for Interview

If any issues remain, the Examiner is formally requested to contact the undersigned attorney prior to issuance of the next Office action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing formal Amendment so that the Examiner may fully evaluate Applicants' position, thereby enabling the interview to be more focused.

This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Conclusion

Claims 19-32 should be allowable. Such action is respectfully requested.

Respectfully submitted,

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: White et al.

Application No. 09/870,267

Filed: May 29, 2001

Confirmation No. 8059

For: VIDEO ON DEMAND METHODS AND
SYSTEMS

Examiner: Vu, Ngoc K.

Art Unit: 2611

Attorney Reference No. 3382-56618-01

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER FOR PATENTS, P O BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent
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Date Mailed May 25, 2006

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**INFORMATION DISCLOSURE STATEMENT PURSUANT TO
37 C.F.R. § 1.97(c)**

Listed on the accompanying form PTO-1449 are several English-language documents.

Applicants respectfully request that these documents be listed as references cited on the issued patent. This Information Disclosure Statement ("IDS") is being mailed before Applicants received a final action, a notice of allowance, or an action that otherwise closes prosecution in the referenced application.

Copies of United States patents and United States published patent applications do not have to be provided to the Patent Office (37 C.F.R. 1.98(a)(2)(ii)). Copies of unpublished U.S. applications do not have to be provided, as long as the application is available on PAIR, as this requirement of 37 C.F.R. § 1.98(a)(2)(iii) has been waived by the United States Patent and Trademark Office pursuant to the Official Gazette Notice on October 19, 2004 (1287 OG 163). Applicants will provide copies of such patents or applications upon request.

Submitted herewith is a check for \$180.00 as required by 37 C.F.R. § 1.17(p) for filing this IDS in compliance with 1.97(c).

Please charge any additional fees which may be required in connection with filing this IDS, or credit any overpayment, to Deposit Account No. 02-4550. A duplicate copy of this sheet is enclosed.

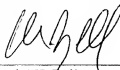
The filing of this IDS shall not be construed to be an admission that the information cited in the statement is, or is considered to be, prior art or otherwise material to patentability as defined in 37 C.F.R. §1.56.

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C. H. H. H.

Date Mailed June 7, 2006

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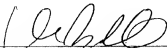
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Art Unit: 2611

Attorney Reference No. 3382-56618-01

VIA FACSIMILE (703-872-9306)

EXAMINER: Vu, Ngoc K.

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Attorney or Agent
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
PURSUANT TO 37 C.F.R. § 1.97(b)

Listed on the accompanying form PTO-1449 are several English-language documents. These documents were previously cited on an Information Disclosure Statement filed with the Patent and Trademark Office on October 2, 2001. Applicants are submitting this PTO-1449 at the request of Examiner Ngoc K. Vu. Applicants respectfully request that these documents be listed as references cited on the issued patent.

The filing of this IDS shall not be construed to be an admission that the information cited in the statement is, or is considered to be, prior art or otherwise material to patentability as defined in 37 C.F.R. §1.56.

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